

CITY COUNCIL/REDEVELOPMENT AGENCY WESTMINSTER, CALIFORNIA
MINUTES OF THE ADJOURNED REGULAR MEETING September 19, 2005

The City Council/Agency Board of the City of Westminster, California convened on September 19, 2005 at 6:06 p.m. in an Adjourned Regular Meeting in the Council Chambers, 8200 Westminster Blvd, Westminster, California.

6:00 P.M.

ROLL CALL:

PRESENT: RICE, PARIS, FRY, QUACH

ABSENT: MARSH

SALUTE TO FLAG: City Manager Schock

ORAL COMMUNICATIONS - None

1. Presentation of the Westminster Rose Center Financial Operating Plan (702-02)

Kate Levenshus, Vice President of Rose Center Foundation, on behalf of Tony Lam, President of the Rose Center Foundation, said the Foundation is very excited about supervising the management of the Rose Center Theater and Art Gallery, and look forward to signing the contract with the City to begin operations.

The Director of Public Works/City Engineer reported that the project continues to be on schedule with a March, 2006 completion date. He provided a Project Financial Summary to Council, noting that the available project balance, minus purchase orders remaining to be issued, and other expenses, is \$310,229.88.

The Finance Director reported that at the July 25, 2005 Study Session, staff was directed to look into the legality of using Infrastructure Revitalization Program (IRP) funds to fund the capital component of the Rose Center. He stated that Kevin Randolph, Best, Best & Krieger provided the opinion that according to Section 33445 of the Health and Safety and the California Community Redevelopment Law (CRL), the Redevelopment Agency could use IRP funds to pay for the reconstruction of the Rose Center. Although the CRL does not specifically address the use of "prefunding" the Rose Center's capital replacement reserve account, the opinion of the attorney firm is that such prefunding would not violate the Health and Safety Code or violate California Redevelopment Law. At present, the CRL and Health and Safety Code has not been faced with this issue before, and although no case has been established, it is not a violation of the Health & Safety Code. The Finance Director added that staff has conferred with the City Attorney's office regarding the opinion letter from Kevin Randolph, and agrees with their opinion.

The Finance Director continued that staff is recommending that the City Council/Agency Board review the Rose Center Financial Operating Plan including Performa Case A or Case B.

1) Will the City adopt a policy with regards to the Rose Center and Crystal Catering to cover potential operating shortfall(s) that may result from the allocation of maintenance costs?

The Finance Director stated that recommendation No. 1 is asking Council if they are interested in entertaining the idea of formulating a policy to make loans to the Rose Center, should the Rose Center fall short of its expected goals. He noted that while this is the first of its kind in the City of Westminster, there is a chance that they may not make their goal of breaking even. In such case, they still have to pay salaries and operating costs. Staff is recommending that staff be directed to form a policy to address this matter.

2) Will the Redevelopment Agency make the appropriate findings and determination to fund the maintenance and replacement costs associated with the Rose Center through the use of the Infrastructure Revitalization Plan (IRP)?

The Finance Director stated that Council directed staff to fund the capital replacement component of the Rose Center with the use of IRP funds. He explained that the capital replacement component consists of the capital items that would need to be replaced after a few years, and referred to a Depreciation and Amortization Schedule included with the staff report. Staff is proposing that a reserve capital component be put together to replace certain aspects of the Rose Center, i.e. air conditioning. Operating Plan A recommends that IRP monies be utilized to do such a replacement.

Mayor Rice introduced Tim Nelson, whom the Rose Center Foundation is hoping to hire as the director/manager of the theater.

Tim Nelson said he has been working directly with Sondra Evans for some time as far as what needs to happen to get the facility up and running from a management standpoint. They have been looking at various dates and planning the first year's calendar of events, discussing the different community organizations that will be very heavily involved and will want to have performances at the theater, as well as ways to generate revenue outside of the community for the facility, when it is up and running. Mr. Nelson said the targeted opening date is April 1, 2006. He noted his experience in operating the Huntington Beach High School Auditorium Theater; nine years at the Academy for Performing Arts in Huntington Beach, and a company in New York for approximately twelve years, with productions from ground zero, raising funds to finding facilities, to directing and producing the final projects, all in musical theater. He also has taught in the Westminster School District for 20 years and worked with many of the local performing groups, as well as Orange County High School for the Arts, who often need to use outside facilities.

Addressing revenues during the first year, Mr. Nelson said that he has seen, in his experience, that a season of musical theater with some original, non-royalty and royalty pieces have generated a large income and public interest.

Mayor Rice commended Tim Nelson and Sondra Evans on their hard work. She would like to move forward with Option 2, Case A, using IRP monies, in the event it needs to be used.

Shirl Stewart, Treasurer of Rose Center Foundation, reported the Foundation has \$174,255.36 that includes two CD's. She said the Rose Center Foundation is discussing the formation of a committee of philanthropists, as well as a separate advisory committee, to come up with more ideas for fundraising. When the theater is open, they hope to have a volunteer group to help garner more funds.

Council Member Quach expressed support for the use of IRP funds as contingent funds, if there are losses. The Finance Director said the IRP funds would pay for reconstruction costs. He reiterated that the recommendation is based on the opinion from Best, Best & Krieger.

The Assistant City Attorney stated that redevelopment funds can be used to replace capital items in the building, i.e., air conditioning, roof. However, maintenance costs are not going to be allowed. In regards to the opinion from Best, Best and Krieger, he agreed that this is not really a resolved issue. Although it is clear that IRP monies can be used for capital items, the setting aside of monies ahead of time is not clear. He said the City must ensure that when the money is ultimately expended, that it is not spent on maintenance, but that it is spent on reconstructing the building. The Finance Director stated that he would ensure compliance with policy and redevelopment law.

In response to Council Member Quach's concern regarding maintenance costs, the Finance Director stated that should the foundation not break even, it is being proposed that Council direct him to come back with a policy to cover those costs with a loan.

Mayor Rice expressed the need to move along as fast as possible, as these are contracts with the City that need to be completed before the end of the year.

The Finance Director stated that staff will return to Council at the October 12, 2005 meeting to ask Council for direction on the development of two policies: 1) for a loan to address any maintenance shortfall(s) of the Rose Center; and 2) to use IRP funds to fund capital components. He said that when he receives that direction at the October 12th meeting, he will develop two policies. The two policies would come to Council for review at the November 9, 2005 meeting.

Mayor Rice reiterated the need to finish the contracts.

Council Member Quach said he would be more comfortable with a memo from the City Attorney's office relative to the use of IRP funds. The Finance Director responded that he spoke with the City Attorney's office, and they are in compliance with the opinion from Best, Best & Krieger. The Assistant City Attorney stated that the City Attorney's office is in agreement with the memo from Best, Best & Krieger.

In order to expedite the process, the Finance Director said that at the October 12, 2005 meeting he will present the same staff report as presented at this meeting, but with a formal recommendation. He will attempt to have the two policies on the October 26, 2005 agenda for consideration.

2. MATTERS FROM MAYOR AND CITY COUNCIL MEMBERS

Mayor Rice expressed delight that at the Orange County Transportation Authority meeting today, there was a unanimous vote in support of Alternative 4 for the I-405 expansion.

Mayor Pro Tem Paris announced that Ed Royce Sr. was appointed as the new Council Member in the City of Stanton. It was the consensus of Council to each contribute toward a plant to send to Council Member Royce.

Council Member Quach thanked Sondra Evans for her dedication and hard work on the Rose Center. Mayor Rice said she would like to have Sondra's name on one of the box seats, as she was the one that wanted them.

COUNCIL ADJOURNMENT: Adjourned at 7:01 p.m.


Marian Contreras, City Clerk/Agency Secretary